

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

---

No. 10-12784  
Non-Argument Calendar

---

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT FEBRUARY 15, 2011 JOHN LEY CLERK
--

D.C. Docket No. 1:08-cr-00487-JOF-JFK-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LUCAS OCHOA-PENALOSA,  
a.k.a. Ricardo Beltran-Gonzales,  
a.k.a. Jesus Gonzales-Gonzales,

Defendant-Appellant.

---

Appeal from the United States District Court  
for the Northern District of Georgia

---

(February 15, 2011)

Before TJOFLAT, PRYOR and FAY, Circuit Judges.

PER CURIAM:

Lucas Ochoa-Penalosa appeals his sentence of 57 months of imprisonment

for reentering the United States illegally. 8 U.S.C. § 1326(a). Ochoa argues that his sentence is unreasonable. We affirm.

The district court did not abuse its discretion by ordering that Ochoa's sentence run consecutive to the first seven years of a sentence imposed by a Georgia court for trafficking in cocaine and concurrently afterward. When "a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment," the district court decides whether the "terms [should] run concurrently or consecutively." 18 U.S.C. § 3584(a). Ochoa was deported in December 2002 after completing a sentence of 60 months of imprisonment for possessing at least 500 grams of cocaine, 21 U.S.C. § 841(a)(1), and, shortly after his term of supervised release expired, Ochoa left his family in Mexico and reentered the United States illegally, where federal agents discovered him in possession of 223 grams of cocaine base and a firearm. The district court considered the sentencing factors and reasonably determined that a sentence at the high end of the guideline range that ran partially concurrent with Ochoa's sentence in state court would best address his "persistent pattern of re-entry" to engage in drug crimes. See U.S. Sentencing Guidelines Manual § 5G1.3(c) (2009); see United States v. Irey, 612 F.3d 1160, 1190 (11th Cir. 2010). Ochoa's sentence is reasonable.

Ochoa's sentence is **AFFIRMED**.